

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Christina R. Paoli

Plaintiff

v.

C.A. No. 06-462-GMS

The State of Delaware, and
Delaware Technical and Community College

Defendants

**PLAINTIFF'S ANSWER TO STATE OF DELAWARE'S MOTION FOR
JUDGMENT ON THE PLEADINGS**

The Plaintiff, Christina Paoli, responds to the motion as follows:

1. As to the claims being barred by the 11th amendment to the constitution, the complaint itself cites multiple federal statutes and/or federal constitutional provisions, including the 14th amendment, that make the issues before this court federal questions, and thus properly before it; or properly before it because immunity has otherwise been waived by the States, or waived in reference to those particular statutes.
2. As to the assertion that the claims fail to state a cause of action against the state because, the Defendant states, "There is not a single allegation of the wrongdoing alleged against the State itself," The Defendant State admits on page 12 of its memorandum that the Plaintiff has expressly alleged that "... the college is a Delaware state education *institution*." (emphasis supplied). Thus, the Plaintiff having alleged that it is an *institution* makes it sufficiently clear, at least for purposes of pleading, that it is part of the apparatus of the state; a department, division, or agency of

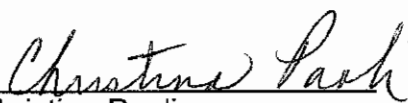
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it; and in fact is so referenced among those entities in the attached listing of "Delaware Technical & Community College." Thus the action of Delaware Technical & Community College was the action of the State, a named defendant in this case.

3. As to the assertion that the complaint should be dismissed for lack of personal jurisdiction over the State for failure to effect proper service, Rule 12 requires that such a motion be filed before pleading. The Defendant State of Delaware has already pled, responding to the particulars of the complaint; and thus has effectively waived any objection as to the sufficiency of the service of process.

Wherefore the Plaintiff requests that the motion be denied, that a hearing be had, and, alternatively, that the plaintiff be permitted time to amend the pleadings and effect service if necessary.


Christina Paoli
600 Third Street
Rehoboth, DE 19971

CERTIFICATION OF SERVICE

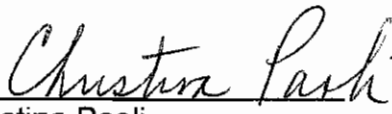
I hereby certify that a copy of the foregoing was mailed by regular mail on

November 14, 2006 to:

Marc P. Niedzielski, Esquire
Deputy Attorney General
State of Delaware
820 N. French Street, 6th Floor
Wilmington, DE 19801

And to:

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